

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5495 OF 2006

Sir D.M.Petit & Ors.

.. Petitioners.

Versus

The State of Maharashtra & Ors.

.. Respondents.

Mr.E.P.Bharucha, Senior Counsel with Mr.A.Balsara &
Ms.Ferzana Behramkamdin i/b.FZB & Associates for
petitioners.

Smt.S.S.Bhonde, A.G.P. for respondents.

CORAM : SMT.RANJANA DESAI &
SMT.ROSHAN DALVI, JJ.

DATE : 5th December, 2007.

P.C.:

1. The petitioners are the Trustees of Nesserwanjee Manockjee Petit Charity Fund. By the present petition, the petitioners are challenging the order dated 27th May, 2005 to the extent it treats the petitioners as encroachers and imposes a rent of 15% of the market value for renewal of the Lease and the letter dated 22nd

February, 2006 under which the respondents seek to recover rent from the petitioners. According to the petitioners, the orders are wholly illegal and they violate the fundamental and other rights of the petitioners.

2. We have heard Mr.Bharucha, Senior Counsel appearing for petitioners. He, interalia, submitted that the order dated 27th May, 2005 is passed without giving hearing to the petitioners. This is not disputed by the respondents in their reply. Mr.Bharucha states that the petitioners will submit a detailed representation to the State Government and in the interest of justice this Court may direct the State Government to dispose it of in accordance with law.

3. In our opinion, interest of justice would be served if a representation made by the petitioners is considered by the State Government after giving hearing to the petitioners. Hence, we pass the following order :-

a) If the petitioners address any representation to the State Government within a period of four weeks from today, the same be considered by the State Government in accordance with law after giving opportunity of hearing to

the petitioners.

b) Any order passed thereon be communicated to the petitioners within a period of two weeks after passing of the same.

4. Ad-interim order passed by this Court on 12th October, 2006 shall continue to operate till such time as the representation of the petitioners is disposed of by the State Government and if the decision is against the petitioners, further for a period of two weeks after the decision is communicated to the petitioners.

4. Petition is disposed of.

(SMT.RANJANA DESAI, J.)

(SMT. ROSHAN DALVI, J.)